IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Mikko NEVALAINEN	Confirmation No.: 8247
Application No.: 10/561,642	Examiner: Imad Hussain
Filed: April 4, 2006	Group Art Unit: 2451

For: METHOD AND DEVICE FOR DETERMINING AND NOTIFYING USERS
HAVING MATCHING PREFERENCE PROFILES FOR ACCESSING A
MULTIPLE ACCESS ONLINE APPLICATION

Commissioner for Patents
Alexandria, VA 22313-1450

APPEAL BRIEF

Dear Sir:

This Appeal Brief is submitted in support of the Notice of Appeal dated July 7, 2009.

I.   REAL PARTY IN INTEREST

NOKIA CORPORATION is the real party in interest.

II.   RELATED APPEALS AND INTERFERENCES

Appellant is unaware of any related appeals and interferences.

III.   STATUS OF THE CLAIMS

Claims 1-8, 10, 12-20, and 22 are pending in this appeal, in which claims 9, 11, 21, and

23 are canceled. No claim is allowed. This appeal is therefore taken from the final rejection of

claims 1-8, 10, 12-20, and 22 on January 7, 2009.

IV.   **STATUS OF AMENDMENTS**

The amendment to claims 1-3, 5, 10, and 12-17 filed October 31, 2008 has been entered.

V.   **SUMMARY OF THE CLAIMED SUBJECT MATTER**

The claimed invention addresses problems associated with bringing together the participants of a multiple access online application where, for example, the application relates to a wireless communication network online game, and providing a possibility to connect users that like to participate in an online game on the basis of similar or substantially similar or matching preferences. In particular, a single mobile device, which receives preference profiles from other mobile terminal devices, acts as a server for the other mobile terminals

Independent claim 1 provides for the following:

1. A method comprising:

receiving, in a mobile terminal device related to a user, a preference profile including identification data and preference data related to at least another user, from a mobile terminal related to said at least one other user (See, e.g., Specification, page 2, line 1-page 3, line 17);

saving said received identification data and said received preference data in a user database, said user database containing preference data of at least a third other user (See, e.g., Specification, page 2, line 1-page 3, line 17);

comparing, in the mobile terminal device which received the preference profile, said received preference data with the preference data contained in the user database for determining users of substantially matching preference data, wherein the comparison is based on a

user-defined degree of non-matching preference data included in preference data related to the user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

determining, in the mobile terminal device which received the preference profile, a plurality of users having said substantially matching preference data (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22); and

sending a notification, from the mobile terminal device which received the preference profile, to each of said mobile terminals related to said determined users (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22).

Independent claim 3 provides for the following:

3. A method comprising:

sending a preference profile including identification data and preference data of a user to a server connected to a wireless communication network, via said network, wherein the server is a mobile terminal device with access to a multiple access online application and related to another user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22); and

receiving a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22).

Independent claim 5 provides for the following:

5. A method comprising:

sending a preference profile including identification data and preference data of a user to a server connected to a wireless communication network, via said network, wherein the server is a mobile terminal device with access to a multiple access online application and related to another user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

receiving, in the server mobile terminal device, the preference profile from a mobile terminal related to the user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

saving said received identification data and said received preference data in a user database, said user database containing preference data of at least a third other user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

comparing, in the server mobile terminal device, said received preference data with the preference data contained in the user database for determining users of substantially matching preference data, wherein the comparison is based on a user-defined degree of non-matching preference data included in preference data related to the another user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

determining, in the server mobile terminal device, a plurality of users having said substantially matching preference data to the user (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22);

sending a notification, from the server mobile terminal device, to each of the mobile terminals related to said determined users (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22); and

receiving the notification from said mobile terminal device in the mobile terminal related

to the user, said notification comprising an offer to get access to said multiple access online

application according to said preference data, wherein said notification comprises data to enable

an access of the user to said multiple access online application (See, e.g., Specification, page 2,

line 1-page 3, line 17; page 5, lines 8-22).

Independent claim 10 provides for the following:

10. A computer-readable storage medium storing a computer program and when said

computer program is run on a mobile terminal device related to a user, the mobile terminal

device:

> receives a preference profile including identification data and preference data related to at
>
> > least one other user, from a mobile terminal related to said at least one other user (See,
> >
> > e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 7, lines 16-24);
>
> saves said received identification data and said received preference data in a user database,
>
> > said user database containing preference data of at least a third other user (See, e.g.,
> >
> > Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 7, lines 16-24);
>
> compares said received preference data with the preference data contained in the user
>
> > database for determining users of substantially matching preference data, wherein the
> >
> > comparison is based on a user-defined degree of non-matching preference data included in
> >
> > preference data related to the user (See, e.g., Specification, page 2, line 1-page 3, line 17;
> >
> > page 5, lines 8-22; page 7, lines 16-24);
>
> determines a plurality of users having said substantially matching preference data (See, e.g.,
>
> > Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 7, lines 16-24);

and

sends a notification to each of said mobile terminals related to said determined users (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 7, lines 16-24).

Independent claim 12 provides for the following:

12. A device comprising:

an interface to a wireless communication network (See, e.g., Specification, page 14, lines 14-32; Fig. 4, network 60) for exchanging data with at least one server (See, e.g., Specification, page 14, lines 14-32; Fig. 4, server 66) connected to said wireless communication network wherein the server is a second mobile device related to another user and has access to a multiple access online application;

a database to store identification data and preference data of a user of said device (See, e.g., Specification, page 14, lines 14-32; Fig. 4, databases 72, 74); and

a processor (See, e.g., Specification, page 14, lines 14-32; Fig. 4, processor 68) connected to said interface and said database

and configured to send a preference profile including identification data and preference data of said user via said interface and via said network to a server (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 14, lines 14-32; Fig. 4),

and configured to receive a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 14, lines 14-32; Fig. 4).

Independent claim 15 provides for the following:

15. A terminal related to a user and operating as a server comprising:

an interface to a wireless communication network (See, e.g., Specification, page 14, lines 14-32; Fig. 4, network 60) for exchanging data with terminal devices connected to a wireless communication network,

a database to store data received from said terminal devices (See, e.g., Specification, page 14, lines 14-32; Fig. 4, databases 72, 74),

a processor (See, e.g., Specification, page 14, lines 14-32; Fig. 4, processor 68) being connected to said interface and said database to process data, wherein said interface is adapted to receive a preference profile including identification data and preference data from at least one other mobile terminal, and said database is adapted to store said preference profile,

means for comparing said received preference data with preference data of at least a third other user for determining users of substantially matching preference data, wherein the comparison is based on a user-defined degree of non-matching preference data included in preference data related to a user of the mobile terminal (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 14, lines 14-32; Fig. 4), and

means for sending a notification to each of said mobile terminals related to said determined users (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 14, lines 14-32; Fig. 4).

Independent claim 17 provides for the following:

17. A system comprising:

a wireless communication network (See, e.g., Specification, page 14, lines 14-32; Fig. 4, network 60);

a server mobile terminal (See, e.g., Specification, page 11, line 17-page 12, line 1; Fig. 2, terminal 28) related to a user having access to a multiple access online application and connected to a wireless communication network configured to receive identification and preference data for other users of respective mobile terminal devices in preference profiles, compare the received preference profiles with stored preference profiles to determine users of substantially matching preference data based on a user-defined degree of non-matching preference data included in preference data related to the user, and send a notification to each of the users determined to have substantially matching preference data (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22); and

a plurality of mobile terminal devices (See, e.g., Specification, page 11, line 17-page 12, line 1; Fig. 2, terminals 24, 26) each storing identification and preference data for a respective user of each of the plurality of mobile terminal devices in a preference profile, each device configured to transmit a respective preference profile to the server mobile terminal (See, e.g., Specification, page 11, line 17-page 12, line 1; Fig. 2, terminal 28) and receive a notification from the server mobile terminal via the wireless communication network wherein the notification includes an offer to get access to the multiple access online application according to the preference data and data to enable the respective users to access the multiple access online application (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22).

Independent claim 22 provides for the following:

22. A computer-readable storage medium storing a computer program and when said computer program is run on a computer or network device, the computer or network device:

sends a preference profile including identification data and preference data of said user to a

server connected to said wireless communication network, via said network wherein the

server is a mobile terminal device with access to a multiple access online application and

related to another of said users (See, e.g., Specification, page 2, line 1-page 3, line 17;

page 5, lines 8-22; page 7, lines 16-24); and

receives a notification from said server, said notification comprising an offer to get access

to said multiple access online application according to said preference data, wherein said

notification comprises data to enable an access of said user to said multiple access online

application (See, e.g., Specification, page 2, line 1-page 3, line 17; page 5, lines 8-22; page 7,

lines 16-24).

VI.   **GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Whether claims 1, 2, 5-8, 10, and 17 are obvious under 35 U.S.C. § 103 based on *Varland*

(WO 01/86997) in view of *Demers et al.* (Bayou Architecture) and *Sutcliffe et al.* (US

6,052,122)?

Whether claims 3, 4, 18-20, and 22 are obvious under 35 U.S.C. § 103 based on *Varland*

(WO 01/86997) in view of *Demers et al.* (Bayou Architecture)?

Whether claims 12-14 are obvious under 35 U.S.C. § 103 based on *Varland* (WO

01/86997) in view of *Demers et al.* (Bayou Architecture) and *Zancho* (US 5,630,159)?

Whether claims 15 and 16 are obvious under 35 U.S.C. § 103 based on *Varland* (WO

01/86997), *Demers et al.* (Bayou Architecture) and *Sutcliffe et al.* (US 6,052,122) in view of

Taniguchi et al. (US 2002/0013869)?

VII.   ARGUMENT

A.   CLAIMS 1, 2, 5-8, 10, AND 17 ARE NOT RENDERED OBVIOUS BY *VARLAND*, *DEMERS ET AL.*, AND *SUTCLIFFE ET AL.* BECAUSE NONE OF THE REFERENCES DISCLOSES OR SUGGESTS ALL OF THE CLAIMED OPERATIONS BEING PERFORMED BY A SINGLE MOBILE TERMINAL DEVICE THAT RECEIVES THE PREFERENCE PROFILE.

The initial burden of establishing a *prima facie* basis to deny patentability to a claimed

invention under any statutory provision always rests upon the Examiner. *In re Mayne*, 104 F.3d

1339, 41 USPQ2d 1451 (Fed .Cir. 1997); *In re Deuel*, 51 F.3d 1552, 34 USPQ2d 1210 (Fed. Cir.

1995); *In re Bell*, 991 F.2d 781, 26 USPQ2d 1529 (Fed. Cir. 1993); *In re Oetiker*, 977 F.2d 1443,

24 USPQ2d 1443 (Fed. Cir. 1992). In rejecting a claim under 35 U.S.C. § 103, the Examiner is

required to provide a factual basis to support the obviousness conclusion. *In re Warner*, 379 F.2d

1011, 154 USPQ 173 (CCPA 1967); *In re Lunsford*, 357 F.2d 385, 148 USPQ 721 (CCPA 1966);

In re Freed, 425 F.2d 785, 165 USPQ 570 (CCPA 1970).

Taking claim 1 as exemplary, the claimed subject matter provides for receiving a

preference profile from a mobile terminal related to at least one other user; saving the received

data, comparing preference data, determining a plurality of users matching the preference data,

and sending a notification to each of the mobile terminals related to determined users, where each

of these operations is performed "**by the mobile terminal device which received the preference**

profile." This single mobile device, which received the preference profile acts as a server for

other mobile terminals. The Examiner has failed to identify any mobile terminal within *Varland,*

Demers et al., or *Sutcliffe et al.*, or the combination thereof, that performs each of the operations

set forth in claim 1. In fact, the Examiner appears to rely on multiple terminals, as disclosed by

Varland, for performance of these claimed functions. The Examiner purports to find "receiving,

in a mobile terminal device related to a user, a preference profile including identification data and

preference data related to at least another user" in the encoded versions of the clearinghouse unit's

client database being sent to the operators (page 2, lines 1-2, of *Varland*) or in the operators

sending a position signal to the position database of the clearinghouse unit (page 2, lines 9-14 of

Varland). The Examiner purports to find "saving said received identification data and said

received preference data in a user database" in the service providers' transfer of personal

information to the clearinghouse unit where it may be stored (page 6, lines 19-23 of *Varland*).

The Examiner further purports to find the claimed features of "comparing, in the server mobile

terminal device, said received preference data with the preference data contained in the user

database for determining users of substantially matching preference data" and "determining, in the

mobile terminal device which received the preference profile, a plurality of users having said

substantially matching preference data" in the clearinghouse unit 26 of *Varland*. Finally, the

Examiner attempts to find the features of "sending a notification, from the mobile terminal device

which received the preference profile, to each of said mobile terminals related to said determined

users" in the operators' notification to the first and second clients (page 2, lines 14-22 of

Varland).

As is clear from the Examiner's application of *Varland*, different elements and/or devices

in the reference are alleged to perform all of the claimed functions, whereas claim 1 requires all of

the functions to be performed by the same single device, i.e., "**by the mobile terminal device**

which received the preference profile."

Moreover, the asserted portions of *Varland* do not correspond to the features of the claim they are purported to disclose. For example, neither the operators nor the clearinghouse unit in *Varland* receives client database information "from a mobile terminal related to said at least one other user," as claimed. Instead, the operators receive information from the clearinghouse unit and the clearinghouse unit receives the position signal from the operators. Further, personal information saved by the clearinghouse unit is received from service providers, and not from "a mobile terminal related to at least one other user," as claimed. Accordingly, *Varland* does not disclose the claimed functions all being performed "**by the mobile terminal device which received the preference profile**."

Demers et al. is relied on by the Examiner for an alleged teaching of the receipt of information occurring in a mobile terminal device related to a user. However, *Demers et al.* is silent with respect to comparing, matching, and sending notifications regarding preference profiles in a mobile terminal device, as claimed. Therefore, *Demers et al.* does not provide for the deficiencies of *Varland*. But, even assuming, *arguendo*, that *Demers et al.* could be considered as disclosing at least a mobile terminal for receiving information, the mere replacement of one or more of the devices in *Varland* with a mobile terminal device would still fail to teach the instant claimed subject matter because while *Varland* is directed to a system using an intermediate clearinghouse unit to match clients while maintaining the clients' privacy, the claimed subject matter involves direct communication between mobile terminals and a server mobile terminal device.

The Examiner relies on *Sutcliffe et al.* for an alleged disclosure of a comparison based on a user-defined degree of non-matching preference data included in the preference data related to the user. While *Sutcliffe et al.* is concerned with matching profiles of users, it does not appear to have

any relation to mobile terminals, and, clearly, it does not relate to a single mobile terminal device that acts as a server for other mobile terminal devices by performing all of the claimed operations. That is, *Sutcliffe et al.* discloses none of the claimed operations, all being performed "**by the mobile terminal device which received the preference profile.**"

Since none of the applied references, nor any combination thereof, discloses or suggests at least a mobile terminal device for performing each of the claimed operations, as set forth in independent claims 1, 5, 10, and 17, no *prima facie* case of obviousness has been established with regard to the subject matter of claims 1, 2, 5-8, 10, and 17.

Accordingly, the Honorable Board is respectfully requested to reverse the Examiner's rejection of claims 1, 2, 5-8, 10, and 17 under 35 U.S.C. § 103.

B.   CLAIMS 3, 4, 18-20, AND 22 ARE NOT RENDERED OBVIOUS BY *VARLAND* AND *DEMERS ET AL.* BECAUSE NEITHER OF THE REFERENCES DISCLOSES OR SUGGESTS THE CLAIMED SENDING AND RECEIVING STEPS WHEREIN THE SERVER IS A SINGLE MOBILE TERMINAL DEVICE.

Independent claim 3 recites "sending a preference profile including identification data and preference data of a user to a server connected to a wireless communication network, via said network, wherein the server is a mobile terminal device with access to a multiple access online application and related to another user; and receiving a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application." Independent claim 22 recites similar features.

The Examiner cites page 3, lines 1-4 and 9-14 of *Varland* as teaching the claimed "sending a preference profile including identification data and preference data of a user to a server connected to a wireless communication network, via said network" and cites page 3, lines 23-26 of the reference for a teaching of the claimed "with access to a multiple access online application." The Examiner further cites claim 4 and page 4, lines 10-21 of *Varland* for the claimed feature of "receiving a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application."

The cited portions of the references include "Encoded versions of the client database are sent to the operators. The client database comprises matching profile parameters for each client of the client database" and "The operators determine the real time positions of each client and send position signals to the position database. The position signals comprise the operator identification codes, the matching profile and the real time positions of each client," as well as "When the matched first and second clients provide a positive reply, the clearinghouse unit can grant the service provider access to the details it needs in order to run the correct service application with the correct clients."

Page 4, lines 10-21 of the reference recites:

> With reference to Figs. 1-6, the present invention is a system 10 for separating public and private information in communication networks while permitting communication between subscribers to the communication networks. More particularly, the system 10 has clients/subscribers/users 12, 14 connected via the Internet 16 to a set of service providers 18, 20, 22. The service providers may provide a whole range of services including, but not limited to, dating services, games and entertainment services, role playing games, fan clubs for artists and instant messaging services for member of buddy lists.

In not one of these cited portions of the reference is there a disclosure of "wherein the server is a mobile terminal device with access to a multiple access online application and related to another user," as claimed.

The Examiner recognized that *Varland* lacked a teaching of such a mobile terminal device and turned to *Demers et al.* to provide this feature. In *Demers et al.*, data is shared between mobile terminal devices for collaborative purposes. While there is a teaching of shared data, *Demers et al.* is silent with respect to "sending a preference profile…" and "receiving a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data," as claimed. Therefore, even if *Demers et al.* is combined with *Varland*, the mere replacement of one or more of the devices in *Varland* with a mobile terminal device would still fail to teach the instant claimed subject matter because while *Varland* is directed to a system using an intermediate clearinghouse unit to match clients while maintaining the clients' privacy, the claimed subject matter involves direct communication between mobile terminals and a server mobile terminal device in the "sending" and "receiving" steps.

Since neither of the applied references, nor the combination thereof, discloses or suggests at least a mobile terminal device communicating with a server mobile terminal device for "sending a preference profile including identification data and preference data of a user to a server connected to a wireless communication network, via said network, **wherein the server is a mobile terminal device with access to a multiple access online application and related to another user**; and **receiving a notification from said server**, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access

online application," as set forth in independent claims 3 and 22, no *prima facie* case of obviousness has been established with regard to the subject matter of claims 3 and 22.

Accordingly, the Honorable Board is respectfully requested to reverse the Examiner's rejection of claims 3 and 22 under 35 U.S.C. § 103.

C.   CLAIMS 12-14 ARE NOT RENDERED OBVIOUS BY *VARLAND*, *DEMERS ET AL.*, AND *ZANCHO* BECAUSE NONE OF THE REFERENCES DISCLOSES OR SUGGESTS "THE SERVER IS A SECOND MOBILE DEVICE RELATED TO ANOTHER USER NAD HAS ACCESS TO A MULTIPLE ACCESS ONLINE APPLICATION" NOR DOES ANY COMBINATION OF THE REFERENCES DISCLOSE OR SUGGEST THE CLAIMED INTERRELATIONSHIP OF THE INTERFACE, THE DATABASE, AND THE PROCESSOR.

Independent claim 12 recites, *inter alia*, "an interface to a wireless communication network for exchanging data with at least one server connected to said wireless communication network **wherein the server is a second mobile device related to another user and has access to a multiple access online application**."

The Examiner acknowledged that *Varland* is silent as to this feature and relied on *Demers et al.* to provide for the claim feature. However, for the reasons above, even if *Demers et al.* is combined with *Varland*, the mere replacement of one or more of the devices in *Varland* with a mobile terminal device would still fail to teach the instant claimed subject matter because while *Varland* is directed to a system using an intermediate clearinghouse unit to match clients while maintaining the clients' privacy, the claimed subject matter involves direct communication between mobile terminals and a server mobile terminal device in a manner simply not suggested by either *Varland* or *Demers et al.*

Moreover, as also acknowledged by the Examiner the *Varland/Demers et al.* combination still fails to disclose or suggest "an interface...," "a database to store identification data and preference data of a user of said device," or "a processor connected to said interface and said database." The Examiner relied on *Zancho* for the teaching of these claim features, particularly, claims 1 and 6 of that patent and on col. 2, lines 37-38 and 46-48.

A "port for coupling with a donor device," as in claim 1 of *Zancho* may be an interface, but it clearly does not constitute "an interface to a wireless communication network for exchanging data with at least one server connected to said wireless communication network **wherein the server is a second mobile device related to another user and has access to a multiple access online application**." The cited portions of column 2 relate to a non-application device such as a memory card or widely accessible central databases, which can store and provide preferences to application devices, and to preferences to be established for users encountering new models of comfortable equipment through a seamless interface to the device.

However, while *Zancho* may disclose a general teaching of an interface, a processor (assuming the Examiner is referring to the controller in claim 1 of *Zancho*) and a database, there is no particular teaching in *Zancho*, or in any of the other applied references, of the claimed interaction of these elements, i.e., "**an interface** to a wireless communication network **for exchanging data with at least one server** connected to said wireless communication network **wherein the server is a second mobile device related to another user** and has access to a multiple access online application; a **database to store identification data and preference data of a user of said device**; and a processor connected to said interface and said database."

Since none of the applied references, nor any combination thereof, discloses or suggests at least "an interface to a wireless communication network for exchanging data with at least one

server connected to said wireless communication network **wherein the server is a second mobile device related to another user and has access to a multiple access online application,**" as set forth in independent claim12, no *prima facie* case of obviousness has been established with regard to the subject matter of claims 12-14.

Accordingly, the Honorable Board is respectfully requested to reverse the Examiner's rejection of claims 12-14 under 35 U.S.C. § 103.

D. CLAIMS 15 AND 16 ARE NOT RENDERED OBVIOUS BY *VARLAND*, *DEMERS ET AL.*, *SUTCLIFFE ET AL.*, AND *TANIGUCHI ET AL.* BECAUSE NONE OF THE REFERENCES DISCLOSES OR SUGGESTS THE CLAIMED RELATIONSHIP BETWEEN THE MOBILE TERMINAL DEVICES.

For the reasons above, the combination of *Varland* and *Demers et al.* does not result in the instant claimed subject matter because even if *Demers et al.* is combined with *Varland*, the mere replacement of one or more of the devices in *Varland* with a mobile terminal device would still fail to teach the instant claimed subject matter. While *Varland* is directed to a system using an intermediate clearinghouse unit to match clients while maintaining the clients' privacy, the claimed subject matter involves direct communication between mobile terminals and a server mobile terminal device in a manner simply not suggested by either *Varland* or *Demers et al.*

Additionally, the Examiner acknowledged that the *Varland/Demers et al.* combination still fails to teach a comparison based on a user-defined degree of non-matching preference data included in the preference data related to the user, and relied on *Sutcliffe et al.* for this feature.

While *Sutcliffe et al.* is concerned with matching profiles of users, it does not appear to have any relation to mobile terminals, and, clearly, it does not relate to "comparing said received preference data with preference data **of at least a third other user** for determining users of

substantially matching preference data," as claimed. Moreover, *Sutcliffe et al.* does not provide

for the deficiencies of the *Varland/Demers et al.* combination.

The Examiner relied on *Taniguchi et al.* for a teaching of an interface to a wireless

communication network for exchanging data with terminal devices connected to said wireless

communication network and a processor connected to the interface and the database to process

data. In particular, the Examiner cites paragraph [0121] of *Taniguchi et al.* The cited paragraph

discloses a client as a PC having a node to create image data such as a document. Described

therein is a server 72 including a CPU, a ROM, and a RAM, with the server provided with

storage. *Taniguchi et al.* is concerned with receiving e-mail by a mobile terminal and is not

concerned at all with a mobile terminal operating as a server in the manner claimed. Thus, the

mere disclosure of an interface, a processor, and a database would not have led the skilled artisan

to take these teachings from *Taniguchi et al.* and use them to make any modification to the

Varland/Demers et al./ Sutcliffe et al. combination that would result in the subject matter of

independent claim 15.

Since none of the applied references, nor any combination thereof, discloses or suggests at

least "a processor being connected to said interface and said database to process data, wherein

said interface is adapted to receive a preference profile including identification data and

preference data **from at least one other mobile terminal**, and said database is adapted to store

said preference profile, means for comparing said received preference data with **preference data**

of at least a third other user for determining users of substantially matching preference data,

wherein the comparison is based on a user-defined degree of non-matching preference data

included in preference data **related to a user of the mobile terminals**," set forth in independent

claim15, no *prima facie* case of obviousness has been established with regard to the subject matter of claims 15 and 16.

Accordingly, the Honorable Board is respectfully requested to reverse the Examiner's rejection of claims 15 and 16 under 35 U.S.C. § 103.

VIII. **CONCLUSION AND PRAYER FOR RELIEF**

For the foregoing reasons, Appellant requests the Honorable Board to reverse each of the Examiner's rejections.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

September 29, 2009   /Phouphanomketh Ditthavong/
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IX. CLAIMS APPENDIX

1. A method comprising:

receiving, in a mobile terminal device related to a user, a preference profile including
identification data and preference data related to at least another user, from a mobile
terminal related to said at least one other user;

saving said received identification data and said received preference data in a user database,
said user database containing preference data of at least a third other user;

comparing, in the mobile terminal device which received the preference profile, said received
preference data with the preference data contained in the user database for determining
users of substantially matching preference data, wherein the comparison is based on a
user-defined degree of non-matching preference data included in preference data related to
the user;

determining, in the mobile terminal device which received the preference profile, a plurality
of users having said substantially matching preference data; and

sending a notification, from the mobile terminal device which received the preference profile,
to each of said mobile terminals related to said determined users.

2. Method according to claim 1, further comprising granting to each of said notified users an
access to a multiple access online application.

3. A method comprising:

sending a preference profile including identification data and preference data of a user to a
server connected to a wireless communication network, via said network, wherein the

server is a mobile terminal device with access to a multiple access online application and

related to another user; and

receiving a notification from said server, said notification comprising an offer to get access to

said multiple access online application according to said preference data, wherein said

notification comprises data to enable an access of said user to said multiple access online

application.

4.   Method according to claim 3, further comprising accessing said application according to

said received data to enable an access of said user to said multiple access online application.

5.   A method comprising:

sending a preference profile including identification data and preference data of a user to a

server connected to a wireless communication network, via said network, wherein the

server is a mobile terminal device with access to a multiple access online application and

related to another user;

receiving, in the server mobile terminal device, the preference profile from a mobile terminal

related to the user;

saving said received identification data and said received preference data in a user database,

said user database containing preference data of at least a third other user;

comparing, in the server mobile terminal device, said received preference data with the

preference data contained in the user database for determining users of substantially

matching preference data, wherein the comparison is based on a user-defined degree of

non-matching preference data included in preference data related to the another user;

determining, in the server mobile terminal device, a plurality of users having said

substantially matching preference data to the user;

sending a notification, from the server mobile terminal device, to each of the mobile terminals

related to said determined users; and

receiving the notification from said mobile terminal device in the mobile terminal related to

the user, said notification comprising an offer to get access to said multiple access online

application according to said preference data, wherein said notification comprises data to

enable an access of the user to said multiple access online application.

6. Method according to claim 1, wherein said wireless communication network is a cellular

telephone network.

7. Method according to claim 1, wherein said notification is a short message or a multimedia

message.

8. Method according to claim 1, wherein said multiple access online application is a wireless

communication network game.

9. (Canceled)

10. A computer-readable storage medium storing a computer program and when said

computer program is run on a mobile terminal device related to a user, the mobile terminal

device:

receives a preference profile including identification data and preference data related to at

least one other user, from a mobile terminal related to said at least one other user;

saves said received identification data and said received preference data in a user database, said user database containing preference data of at least a third other user;

compares said received preference data with the preference data contained in the user database for determining users of substantially matching preference data, wherein the comparison is based on a user-defined degree of non-matching preference data included in preference data related to the user;

determines a plurality of users having said substantially matching preference data;

and

sends a notification to each of said mobile terminals related to said determined users.

11. (Canceled)

12. A device comprising:

an interface to a wireless communication network for exchanging data with at least one server connected to said wireless communication network wherein the server is a second mobile device related to another user and has access to a multiple access online application;

a database to store identification data and preference data of a user of said device; and

a processor connected to said interface and said database

and configured to send a preference profile including identification data and preference data of said user via said interface and via said network to a server,

and configured to receive a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application.

13. A device according to claim 12, wherein said processor is further configured to access a multiple access online application via a wireless communication network, in accordance with said received data to enable said access of said multiple access online application.

14. A device according to claim 12, further comprising an interface for connecting an exchangeable memory device.

15. A terminal related to a user and operating as a server comprising:

an interface to a wireless communication network for exchanging data with terminal devices connected to a wireless communication network,

a database to store data received from said terminal devices,

a processor being connected to said interface and said database to process data, wherein said interface is adapted to receive a preference profile including identification data and preference data from at least one other mobile terminal, and said database is adapted to store said preference profile,

means for comparing said received preference data with preference data of at least a third other user for determining users of substantially matching preference data, wherein the comparison is based on a user-defined degree of non-matching preference data included in preference data related to a user of the mobile terminal, and

means for sending a notification to each of said mobile terminals related to said determined users.

16. A terminal according to claim 15 wherein said processor is configured to send said notification as a short message or as a multimedia message.

17. A system comprising:

a wireless communication network;

a server mobile terminal related to a user having access to a multiple access online application and connected to a wireless communication network configured to receive identification and preference data for other users of respective mobile terminal devices in preference profiles, compare the received preference profiles with stored preference profiles to determine users of substantially matching preference data based on a user-defined degree of non-matching preference data included in preference data related to the user, and send a notification to each of the users determined to have substantially matching preference data; and

a plurality of mobile terminal devices each storing identification and preference data for a respective user of each of the plurality of mobile terminal devices in a preference profile, each device configured to transmit a respective preference profile to the server mobile terminal and receive a notification from the server mobile terminal via the wireless communication network wherein the notification includes an offer to get access to the multiple access online application according to the preference data and data to enable the respective users to access the multiple access online application.

18. Method according to claim 3, wherein said wireless communication network is a cellular telephone network.

19. Method according to claim 3, wherein said notification is a short message or a multimedia message.

20. Method according to claim 3, wherein said multiple access online application is a wireless communication network game.

21. (Canceled)

22. A computer-readable storage medium storing a computer program and when said computer program is run on a computer or network device, the computer or network device:

sends a preference profile including identification data and preference data of said user to a server connected to said wireless communication network, via said network wherein the server is a mobile terminal device with access to a multiple access online application and related to another of said users; and

receives a notification from said server, said notification comprising an offer to get access to said multiple access online application according to said preference data, wherein said notification comprises data to enable an access of said user to said multiple access online application.

23. (Canceled)

X.   __EVIDENCE APPENDIX__

Appellant is unaware of any evidence that is required to be submitted in the present Evidence Appendix.

XI.   __RELATED PROCEEDINGS APPENDIX__

Appellant is unaware of any related proceedings that are required to be submitted in the present Related Proceedings Appendix.